

REMARKS

Claims 2-12, 22-24, 26-27, 32, 34-44 and 47-52 are presently pending in the above-referenced application. Claims 13-21, 28-31, 33 and 45-46 were previously cancelled, and Claim 25 is cancelled herein. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

CLAIM AMENDMENTS

Claim 5 is amended to conform with the teaching in the specification, specifically the crowders' function of aligning the first sheet material with respect to the lower nest. See ¶0039. Claim 22 is amended to provide proper antecedent basis for the term "elongated channel." Claim 25 is cancelled in view of the amendment to claim 22. Applicant submits that these amendment do not raise any new issues that would require additional searching by the Examiner.

REJECTION UNDER 35 U.S.C. § 112

Claims 2-12, 22-27, 32, 34-45 and 49-51 are rejected under the first paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement. The Examiner rejected these claims as containing "subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." See Office Action, p. 2.

Regarding claims 49-51, the Examiner took issue with the phrase "to enable unobstructed lateral movement of the forming tool from the material-contacting area

across the boundary” deeming it to be new matter.¹ In maintaining his prior rejection, the Examiner remarked that “applicant’s figure [FIG. 2] does not show how the forming tools are moved into engagement with the material in a manner which enables unobstructed lateral movement in the manner claimed.” The Examiner also noted that the “crowder assemblies with fingers are not recited in the claims and do not explicitly provide unobstructed lateral movement of the forming tool as claimed.” See Office Action, p. 5. Applicant submits that the Examiner has failed to establish a *prima facie* case or properly reply to Applicant’s response. See, MPEP 2163.04.

Applicant submits that the Examiner incorrectly focused on “how the forming tools are moved” instead of the claimed structure of the lower nest. See, MPEP 2163.03 (compliance with written description requirement analyzed in view of claimed subject matter). The relevant claim language recites: “a lower nest including ...[an] upper surface having a generally flat material-contacting area extending to a boundary of the upper surface to enable unobstructed lateral movement of the forming tool from the material-contacting area across the boundary...” This claim limitation is not directed to how a tool is moved or a particular tool path. As noted in the application as filed the “detail of the forming units 400, 402 are well known to those skilled in the art.” See ¶[0041]. See also, U.S. Patent No. 5,228,190 to Sawa, col. 5, lines 18-47 (general understanding of a roller-type hemming operation and movement of the tool with respect to the lower die). Rather this claim limitation recites the structural configuration of the upper surface as being “a generally flat material-contacting portion that extends to a boundary of the upper surface to enable unobstructed lateral movement of the forming

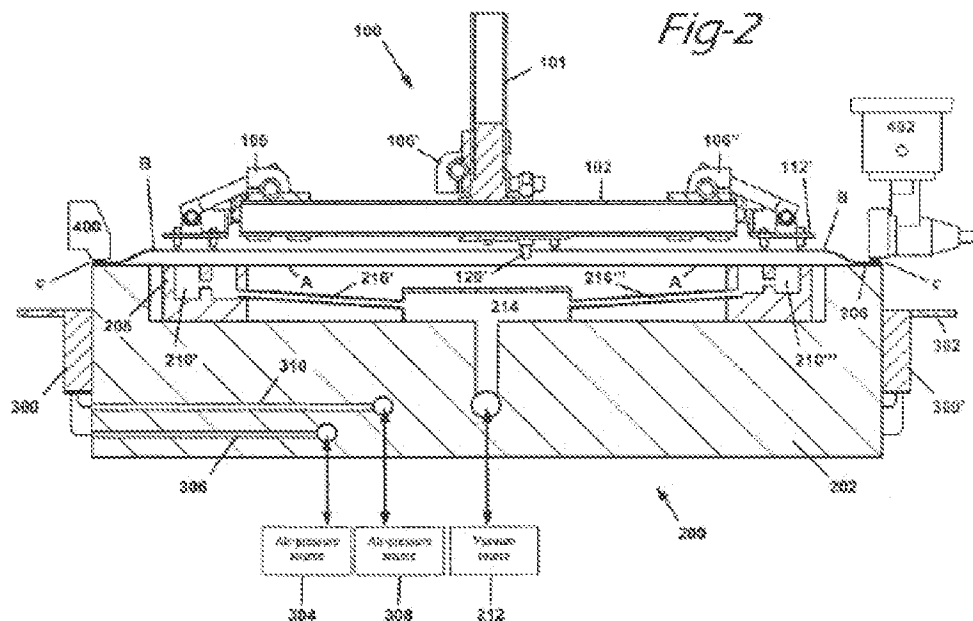
¹ Claims 2-12, 22-27, 32 and 34-45 were rejected due to their dependency on claims 49-51.

tool from the material-contacting area across the boundary.” In proper context it is clear that the language emphasized by the Examiner qualifies the generally flat material-contacting portion, but does not recite the movement of a tool along any particular path.

The Examiner also misapprehended the significance of Applicant’s disclosure relating to the crowder assemblies and improperly dismissed this evidence for not being recited in the claims.² The Examiner must review the basis for his rejection in view of the record as a whole including amendments, arguments and any evidence submitted by the applicant. See MPEP 2163.4 (II. Response To Applicant’s Reply). Those portions of the specification discussing the crowder assemblies demonstrate that the Applicant appreciated the fact that the structure of the lower nest should enable unobstructed movement of the forming tool. See ¶¶ [0005], [0008], [0038], [0039], and [0049]-[0050]. See also, Applicant’s Response dated March 3, 2009, pp. 12-14.

FIG.2, reproduced below, clearly demonstrates Applicant’s possession of the claimed invention, namely “a lower nest [200] including ...[an] upper surface [206] having a generally flat material-contacting area extending to a boundary of the upper surface to enable unobstructed lateral movement of the forming tool [400, 402] from the material-contacting area across the boundary...”

² Claim 5 as originally filed recited a lower nest including an alignment mechanism, and claims 6 and 17 as originally filed recite at least two crowder assemblies.



For these reasons, Applicant submits that the application as originally filed, and the prosecution record as a whole demonstrates that Applicant had possession of the claimed subject matter at the time the present application was filed, and that the written description requirement is satisfied. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. § 112, ¶1 and allow claims 2-12, 22-27, 32, 34-45 and 49-51.

REJECTION UNDER 35 U.S.C. § 103

Claims 47-48 and 52 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sawa (US Patent 5,228,190) in view of Veale (US Patent 5,375,951).

The Examiner maintains his prior rejection without fully replying to Applicant's prior response. The Examiner incorrectly characterizes Applicant's argument as "attacking references individually" without consideration of the combined teachings of the references. In its prior response, Applicant articulated at least two reasons why the

alleged combination failed to render the claimed subject matter obvious. See, Applicant's Response dated March 3, 2009, p. 15 and p. 16.

The Examiner also disagreed with Applicant's position that Veale failed to teach or suggest the claimed elongated channel but neglected to reply to Applicant's position that Veale failed to teach or suggest any form of sealed elongated channel or a sealed elongated channel formed in part by the first metal sheet. *Id.* In particular, claim 52 recites locating a first metal panel with "an interior region of said first side engag[ing] a pad such that ***a sealed elongated channel is formed between said pad and said first metal panel*** adjacent a portion of said material-contacting area; [and] ... ***evacuating said sealed elongated channel*** to immobilize said first metal panel on said frame...."

Applicant reiterates that neither Sawa or Veale describe forming a sealed elongated channel between a pad and the first metal panel as claimed. As previously noted the prior art fails to provide any teaching or suggestion of a pad or sealed elongated channel for forming and maintaining an adequate clamping configuration or protection against marring of the show surface of the workpiece. The Examiner has not provided any articulated reasoning with some rational underpinning to support his conclusion that the claimed subject matter is obvious. See, Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*, Fed. Reg. Vol. 72, No. 195, 57526, 57529 (Oct. 10, 2007).

Similarly, the Examiner has not provided any support to establish that the proposed combination would be operable, and thus achieve a predictable result of more accurately and precisely aligning and holding the workpieces during automated

processing. *Id.* at 57528-29 (rejections on obviousness cannot be sustained by mere conclusory statement). Veale describes a bed (11) made from a millable material such as wood having a sheet material (17) such as plywood with holes placed on top of the bed so that suction is created through the holes when the vacuum is operated. Veale, 4:13-30. A millable material, such as the wooden bed (11) disclosed in Veale or metal lower die (5) disclosed in Sawa, could not be used to form “a sealed elongated channel...between said pad and said first metal panel” sufficient “to immobilize said first metal panel on said frame” when the elongated channel is evacuated. Supporting a metal panel on a wooden bed will not adequately seal against the first metal panel for forming “a sealed elongated channel” to immobilize the part, and cannot adequately support the loads applied “to form and flange said first metal panel over an edge of said second metal panel.” Similarly, supporting the metal panel on a metal bed or die will also not adequately seal against the first metal panel to form “a sealed elongated channel” to immobilize the part, and would deface the show surface of the first metal panel when it is formed and flanged over an edge of the second metal panel.

In contrast to and what’s missing from the combination proposed by the Examiner, is “a pad such that a sealed elongated channel is formed between the pad and the first sheet metal panel...;” and “evacuating said sealed channel to immobilize said first metal panel on said frame...” The specification describes the pad as an elastic or semi-elastic polymerized material suitable to provide a substantially air-tight seal with respect to the first sheet material and to provide a cushioned surface support for carefully supporting the first sheet material. Applicant’s claimed method provides this structure and method to overcome these deficiencies in the art.

For all of the foregoing reasons, Applicant submits that the claimed method does not and could not properly result from a combination of the teachings from Sawa *et al.* and Veale. Moreover, any attempt to make such a combination would be rejected for failing to provide an adequate clamping force causing unacceptable damage to the finish and show surface of the first sheet material. For each of the above-stated reasons, Sawa in combination with Veale fail to disclose or suggest both the method and the concomitant structure recited in independent claim 52 and dependant claims 47-48 as presently pending.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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